

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
to Revise its Gas Rates and Tariffs to be Effective
July 1, 2005.

Application 04-07-044
(Filed July 30, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION
FILED BY THE UTILITY REFORM NETWORK**

1. Summary

This ruling responds to the notice of intent to claim compensation (NOI) filed in this docket by The Utility Reform Network (TURN) pursuant to Pub. Util. Code § 1804, Article 5. TURN proposes to participate in this proceeding addressing the application of Pacific Gas and Electric Company for changes to gas costs and rates in its Biennial Cost Adjustment Proceeding. Like all intervenors, TURN must demonstrate that participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or the California Public Utilities Commission (Commission) in resolving this proceeding.

2. Statutory Requirements Relevant to CARE and TURN's NOI

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference. TURN

filed its notice within 30 days of the prehearing conference and it is therefore timely.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

3. TURN’s NOI

TURN meets the first definition of customer, as set forth in § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. TURN states it expects to be an active party in this proceeding, focusing its efforts on issues relating to cost allocation and residential rate design. It expects to submit testimony, briefs and comments on a proposed decision.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN estimates a total projected budget of \$120,735 for this case, based on proposed hourly rates for two attorneys and a consultant.

TURN seeks a finding of significant financial hardship. It asks the Commission to apply the finding of significant financial hardship it received in a ruling issued on July 27, 2004 in Rulemaking 04-04-003. Section 1804(b)(1) provides that a finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.” Because this

proceeding was initiated within a year of that ruling, this ruling finds that TURN has demonstrated that its participation in this proceeding may create a significant financial hardship.

IT IS RULED that:

1. The Utility Reform Network (TURN) is a customer as defined in § 1802(b). TURN has met the eligibility requirements of § 1804(a) and would experience significant financial hardship if it were to participate in this proceeding without intervenor compensation.

2. In all other respects, TURN has satisfied the requirements for an NOI to claim compensation in this proceeding.

Dated December 20, 2004, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation Filed by The Utility Reform Network on all parties of record in this proceeding or their attorneys of record.

Dated December 20, 2004, at San Francisco, California.

/s/ ERLINDA A. PULMANO
Erlinda A. Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.